

CORPORATION OF THE CITY OF CLARENCE-ROCKLAND

BY-LAW 2013-116

BEING A BY-LAW TO PROMOTE HIGH STANDARDS OF CONDUCT FOR MEMBERS OF MUNICIPAL COUNCIL.

WHEREAS Sections 9, 10 and 11, of the Ontario Municipal Act, S. 223.2(1) as amended authorizes a municipality to establish codes of conduct for members of the council of the municipality and of local boards of the municipality.

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF CLARENCE-ROCKLAND ENACTS AS FOLLOWS:

I. PRINCIPLES UPON WHICH THIS CODE IS BASED

Improving the quality of municipal administration and governance can best be achieved by encouraging high standards of conduct on the part of all municipal officials. In particular, the public is entitled to expect the highest standards of conduct from the members that it elects to local government. In turn, adherence to these standards will protect and maintain the municipality's reputation and integrity.

Key statements of principle that underline this Code of Conduct are as follows:

- Members of Council shall at all times serve and be seen to serve the interests of the City and their constituents in an ethical, conscientious and diligent manner, and shall approach decision-making with an open mind;
- Members of Council must be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;
- Members of Council are expected to perform their duties in office and arrange their private affairs, in a manner that promotes public confidence and will bear close public scrutiny;
- Members of Council must recognize and act upon the principle that democracy is best achieved when the operation of government is made as a transparent and accountable to members of the public as possible; and

- Members of Council shall seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Ontario Legislature, as well as the laws and policies adopted by the municipal council.

II. APPLICATION OF THIS CODE

This Code of Conduct applies to every member of the Council.

III. DEFINITIONS

In this Code of Conduct:

“child” means a child born within or outside marriage and includes an adopted child and a person whom a member has demonstrated a settled intention to treat as a child of his or her family;

“corporation” means the City of Clarence-Rockland;

“Council” means the Council of the Corporation of the City of Clarence-Rockland;

“information” includes a record or document;

“member” means a member of the Council, unless the context otherwise requires;

“parent” means a person who has demonstrated a settled intention to treat a child as a part of his or her family whether or not that person is the natural parent of the child;

“municipality” means the Corporation of the City of Clarence-Rockland;

“person” includes a corporation, partnership, association and any other entity, as the context allows; and

“spouse” means a person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage.

IV. COMPLIANCE WITH DECLARATION OF OFFICE

Every member shall act in accordance with his or her declaration of office.

V. ADHERENCE TO COUNCIL POLICIES AND PROCEDURES

Every member of Council shall observe and comply with every provision of this Code of Conduct, as well as all other policies and procedures adopted or established by Council affecting the Councillor, acting in his or her capacity as a member of Council.

VI. CONDUCT AT MEETINGS

Every member shall conduct himself or herself properly and in a civil manner at Council, committee and other meetings, and in accordance with the provisions of the Procedure By-law, this Code of Conduct, and other applicable law.

VII. CONDUCT RESPECTING OTHERS

Every member of Council has the duty and responsibility to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation, and to ensure that the municipal work environment is free from discrimination and harassment.

VIII. CONDUCT RESPECTING STAFF

Under the direction of the senior municipal administration, and in accordance with the decisions of Council, municipal staff is required to serve the municipal corporation as a whole. Every member shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any member or faction of the Council. Accordingly, no member shall maliciously or falsely injure or impugn the professional or ethical reputation of any member of staff. Every member shall show respect for staff, and for their professional capacities and responsibilities.

No member shall compel any member of staff to engage in partisan political activities, or subject any member of staff to threat or discrimination for refusing to engage in any such activity. No member shall use or attempt to further his or her authority or influence by intimidating, threatening, coercing, commanding, or influencing improperly any staff member or interfering with that person's duties, including the duty to disclose improper activity.

IX. GIFTS AND BENEFITS

For the purpose of this Code, a gift or benefit provided, with the member's knowledge, to a member's spouse, child or parent, or to his or her staff, that is connected directly or indirectly to the performance of the member's duties, is deemed to be a gift or benefit to that member.

No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted under one or more of the exceptions listed below.

Each of the following is recognized as an exception:

- (a) compensation authorized by law;
- (b) a gift or benefit of the kind that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation;
- (c) a political contribution otherwise authorized and reported as required by law, in the case of member running for office;
- (d) services provided without compensation by a person volunteering his or her time;
- (e) a suitable memento of a function honoring the member;
- (f) food, lodging, transportation or entertainment lawfully provided by any Provincial, regional or local government, or board or political subdivisions of any of them, by the Federal government, a foreign government, or by those organizing a conference seminar or event where the member is speaking or attending in an official capacity;
- (g) food and beverages consumed at a banquet, reception or similar event, if:
 - i. Attendance by the member is for a legitimate municipal purpose;
 - ii. The person extending the invitation, or a representative of the organization holding the event, is in attendance; and
 - iii. The value is reasonable;

- (h) communications to the office of a member, including subscriptions to newspapers and periodicals; and
- (i) a sponsorship or donation for a community event organized or run by a member, or a third part on behalf of a member, subject to the limitations set out in any applicable municipal policy.

Except for exception (c) (political contributions allowable by law), these exceptions do not apply where a gift or benefit is provided by a lobbyist or a lobbyist's client or employer. In this provision, a lobbyist is an individual, organization or business who or that:

- (a) lobbies, or causes the lobbying of, any public office holder or the municipality, the municipal council or corporation, or a local board;
- (b) the member knows is attempting or intending to lobby the member or any of the public persons or bodies listed in paragraph (a); or
- (c) is maintaining an active lobbyist registration with the municipality, whether or not with respect to any specific or current subject-matter.

In the case of any of the recognized exceptions (b), (e), (f), (h) and (i), if the value of the gift or benefit exceeds \$300.00, or if the total value of gifts or benefits received from any one source during the course of a calendar year exceeds \$300.00, the member shall file, within 30 days of receipt of the gift or benefit, or of reaching the annual limit, a disclosure statement with the municipality [or with its Integrity Commissioner].

The disclosure statement must set out:

- 1 the nature of every gift or benefit received;
- 2 its source and date of receipt;
- 3 the circumstances under which it was given and received;
- 4 its estimated value;
- 5 what the recipient intends to do with any gift; and
- 6 whether any gift will at some point be provided to the municipality.

Every disclosure statement filed under this Code shall be made a public record.

Upon receiving a disclosure statement, the Integrity Commissioner, or other responsible municipal official, shall examine it to ascertain whether the receipt of the gift or benefit might, in his or her opinion, constitute a contravention of this Code or create a conflict between a private interest and the public duty or responsibilities of the member. In the event that the Integrity Commissioner makes such a determination, he or she shall call upon the member to justify receipt of the gift or benefit.

Should the Integrity Commissioner or other municipal official determine that receipt of any gift or benefit was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of the gift or benefit already consumed, forfeit the gift or remit the value of any gift or benefit already consumed, to the municipality.

Except in the case of exceptions (a), (c), (f) and (i), no member shall accept a gift or benefit worth in excess of \$500.00 or gifts or benefits from one source during a calendar year which together are worth in excess of \$500.00.

X. CONFIDENTIAL INFORMATION

In this Code, "confidential information" includes any information in the possession of, or received in confidence by, the municipality that the municipality is prohibited from disclosing, or has decided to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act*, or any other law. "Confidential information" also includes information of a corporate, commercial, scientific or technical nature received in confidence from third parties; personal information; information that is subject to solicitor-client privilege; information that concerns any confidential matters pertaining to personnel, labour relations, litigation, property acquisition, the security of the property of the municipality or a local board; and any other information lawfully determined by the Council to be confidential, or required to remain or be kept confidential by legislation or order.

No member shall disclose, release or publish by any means to any person or to the public any confidential information acquired by virtue of his or her office, in any form, except when required or authorized by Council or otherwise by law to do so.

No member shall use confidential information for personal or private gain or benefit, or for the personal or private gain or benefit of any other person or body.

A matter, the substance of a matter, and information pertaining to a matter, that has been debated or discussed at a meeting closed to the public, shall be maintained as confidential, unless authorized by the Council or legislation to be released, generally or subject to conditions, and such are complied with. No information pertaining to such a matter, the manner in which it was dealt with at the meeting, or any part or description of the debate, shall be disclosed unless authorized by the Council or otherwise by law.

A member may disclose the content of any matter referred to in the preceding paragraph or the subject-matter of deliberations, at an in camera meeting, only after the Council or committee lawfully and knowingly discusses the information at a meeting that is open to the public or releases the information to the public.

Without limiting the generality of the foregoing, no member shall, without lawful authority, disclose, or make personal use of, any of the following types of confidential information:

- information concerning litigation, negotiation or personnel matters;
- information the publication of which may infringe on the rights of any person (e.g. source of a complaint where the identity of a complainant is given in confidence);
- price schedules in any contract, tender or proposal document while such remains a confidential document;
- information deemed to be "personal information" under the *Municipal Freedom of Information and Protection of Privacy Act*; and
- any other information or statistical data required by law not to be released.

No member of Council shall obtain access, or attempt to gain access, to confidential information in the custody of the municipality except to the extent that such access is necessary for the performance of his or her duties and such access is not prohibited by Council or otherwise by law.

XI. USE OF CITY PROPERTY, SERVICES AND OTHER RESOURCES

No member of Council shall use, or permit the use of, municipal land, facilities, equipment, supplies, services, staff or other resources, including any municipally-owned information, website, Council transportation delivery service or funds allocated for member of Council expenses, for any purpose or activity other than the lawful business of the municipal corporation. No member shall seek or acquire any personal financial gain from the use or sale of confidential information, or of any municipally-owned intellectual property including any

invention, creative writing or drawing, computer program, technical innovation, or any other information or item capable of being patented or copyrighted, of which property remains exclusively that of the municipality.

XII. CONDUCT OF ELECTION CAMPAIGN

Every member shall comply with all applicable requirements of the *Municipal Elections Act, 1996*. No member shall use confidential information, facilities, equipment, supplies, services or other resources of the municipality, including any Councillor newsletter or website linked through the municipality's website, for any election campaign or campaign-related activity. No member shall undertake campaign-related activities on City property during regular staff working hours unless authorized by the municipality. No member shall use the services of any person for election-related purposes during hours in which that person receives any compensation from the municipality.

XIII. NO IMPROPER USE OF INFLUENCE

No member of Council shall use the influence of his or her office for any purpose other than for the lawful exercise of his or her official duties and for municipal purposes.

No member of Council shall use his or her office or position to influence or attempt to influence the decision of any other person, for the member's private advantage or that of the member's parent, child, spouse, staff member, friend or associate, business or otherwise. No member shall attempt to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. No member shall hold out the prospect or promise of future advantage through the member's supposed influence within Council, in return for any action or inaction. For the purposes of this provision, "private advantage" does not include a matter:

- a) that is of general application;
- b) that affects a member of Council, his or her parents/children or spouse, staff members, friends or associates, business or otherwise, as one of a broad class of persons; or
- c) that concerns the remuneration or benefits of a member of Council.

This provision does not prevent a member of Council from requesting that Council grant a lawful exemption from a policy.

XIV. NON-COMPLIANCE WITH THIS CODE OF CONDUCT – SANCTIONS

A member found by Council to have contravened any provision of this Code, is subject to one or more of the following consequences imposed by Council, as referred to in the following two paragraphs;

The *Municipal Act, 2001* authorizes the Council, where it has received a report by its Integrity Commissioner that, in his or her opinion, there has been a violation of the Code of Conduct, to impose upon the offending member of Council;

a) a reprimand; and/or

b) suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board, as the case may be, for a period of up to 90 days.

The Integrity Commissioner may also recommend that Council or a local board take one or more of the following actions:

a) removal from membership on a committee or local board;

b) removal as chair of a committee or local board;

c) repayment or reimbursement of monies received;

d) return of property or reimbursement of its value;

e) request an apology to Council, the complainant, or both; or

f) any other or additional action deemed by Council to be appropriate, and which is within its power to take.

XV. NO REPRISAL OR OBSTRUCTION IN THE APPLICATION OR ENFORCEMENT OF THIS CODE

Every member of Council must respect the integrity of the Code of Conduct and inquiries and investigations conducted under it, and shall co-operate in every way possible in securing compliance with its application and enforcement. Any reprisal or threat or reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person is prohibited. It is also a violation of the Code of Conduct to obstruct the Integrity Commissioner, or any other municipal official involved in applying or furthering the objectives or requirements of this Code, in the carrying out of such responsibilities, or pursuing any such objective.

XVI. STATUTES REGULATING THE CONDUCT OF COUNCILLORS

In addition to this Code of Conduct, the following Ontario legislation also governs the conduct of member of Council;

- the *Municipal Act, 2001*, as amended;
- the *Municipal Conflict of Interest Act*;
- the *Municipal Elections Act, 1996*; and
- the *Municipal Freedom of Information and Protection of Privacy Act*.

The *Criminal Code* of Canada also governs the conduct of members of Council.

A member may become disqualified and lose his or her seat by operation of law, including being convicted of an offence under the *Criminal Code* of Canada or being found to have failed to comply with the *Municipal Conflict of Interest Act*, whether or not the conduct in question involves contravention of this Code of Conduct.

In the case of any inconsistency between this Code and a Federal or Provincial statute or regulation, the statute or regulation shall prevail.

Read a first time on the 16th day of September 2013.

Read a second time on the 21ST day of October 2013.

Read a third time and finally passed this 27th day of January 2014.

(original signed)

Marcel Guibord, Mayor

(original signed)

Monique Ouellet, Clerk

Annex to By-law No. 2013-116

Legislated Role of Integrity Commissioner

(section 223.3 of the Municipal Act, 2001)

- The Integrity Commissioner reports directly to Council on matters related to the Code of Conduct and other policies, rules or procedures related to ethics for Council and/or local boards;
- The Integrity Commissioner has the power to undertake investigation into complaints alleging contraventions of the applicable code of conduct while respecting confidentiality; and
- The Integrity Commissioner's reports are public and she/he is permitted to disclose necessary information related to the findings while maintaining confidentiality.

Duties of the Integrity Commissioner

Under the Municipal Act, 2001, Council has the authority to assign duties and functions to the Integrity Commissioner. The following duties are being recommended:

- Provide advice to Members of Council on ethical behaviour;
- Provide education to Members of Council on the application of a Code of Conduct;
- Assist in the development of the policies and processes in regards to ethics;
- Receive complaints and conduct investigations in accordance with the approved process with respect to alleged contraventions of the Code of Conduct;
- Provide a report on his/her findings and recommendations to City Council;
- Provide an annual summary report of complaints, investigations and advice provided and make any recommendations for any changes to the approved process; and